THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22959 OF 2005

Dated: 26.10.2005

Between

The Toddy Tappers Cooperative Society, Zaheerabad Village and Mandal, Medak District, represented by its President, V. Krishna Mohan Goud, S/o. Vittal Goud, Occ: Tapper, R/o. Zaheerabad of Medak District.

...PETITIONER

AND

The Prohibition & Excise Superintendent, Medak District, Sangareddy.

...RESPONDENT

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

It is the case of the petitioner-society that it obtained the licence to establish toddy depot in the premises sanctioned at Zaheerabad and for storage and supply of toddy to the constituent Shops No.1 to 4 of TCS, Zaheerabad from 01.04.2002 to 31.03.2007. The excise officials have inspected the toddy depot as well as the shop No.3 of TCS, Zaheerabad on 25.05.2005 and found the toddy adulterated. Therefore, under Section 31(1)(b) of the Andhra Pradesh Excise Act, 1968 (for short 'the Act') the Toddy Depot and Shop No.3 of TCS, Zaheerabad, alone are liable to be cancelled and the comprehensive show cause notice issued by the Prohibition and Excise Superintendent, Sangareddy, dated

15.10.2005 for the cancellation of the licence of the toddy depot and its constituent shop Nos.1 to 4 of TCS, Zaheerabad is illegal and contrary to Section 31(2) of the Act.

On the other hand, the learned Government Pleader submits that as per the provisions contained in G.O.Ms.No.551 Revenue (EX-II) Department dated 29.04.2005 the licences of all the Toddy Depots existing in the District stands cancelled with immediate effect and the petitioner-society having closed its depot on 30.04.2005 has been supplying and storing toddy illegally in the toddy depot from its constituent shop Nos.1 to 4. Therefore, in view of the comprehensive show cause notice, the licences of the Toddy Depot as well as its constituent shop Nos.1 to 4 are liable to be cancelled.

The petitioner-society illegally stored toddy in the toddy depot even after the Government order dated 29.04.2005 withdrawing the entire toddy depot licences in the state of Andhra Pradesh and in the inspection conducted on 25.05.2005 in respect of the toddy depot as well as its constituent Shop No.3 the excise officials found one thousand litres of toddy stored in the wooden tubs, which was adulterated. Therefore, there is a violation of the relevant Section 37-A of the Act attracting the liability for cancellation of the said licence.

However, the licence of Toddy Depot and its constituent Shop No.3 of TCS, Zaheerabad has not been cancelled so far and if that be so, the only question that arises for consideration is whether the inclusion of licences of the Shop Nos.1, 2 and 4 of TCS, Zaheerabad in the cancellation proceedings initiated vide impugned notice dated 06.10.2005 is valid.

Under Section 31(1)(b) of the Act, in the event of any breach by the holder thereof, or by any of his servants or by any one acting on his behalf with his express or implied permission, of any of the terms and conditions thereof; the said licence is liable to be cancelled. Under Section 31(2) of the Act where a licence or permit held by any person is cancelled under Section 31(a) or (b) or (c) or (d) of sub-section (1), then only the authority may cancel the other licence granted. Therefore, I am of the opinion that unless the licence in respect of the Toddy Depot and Shop No.3 of TCS, Zaheerabad, is cancelled the licencing authority is precluded from canceling the licences of other shops where no breach is said to have been committed. The licencing authority will get power to cancel the licences of other shops only after the cancellation of licence of the Toddy Depot and Shop No.3 of

TCS, Zaheerabad, under Section 31(2) of the Act.

Accordingly, the show cause notice insofar as the cancellation of the licences of the Toddy Depot and Shop No.3 of TCS, Zaheerabad is upheld and the same is set aside insofar as the cancellation of the licences of Shop Nos.1, 2 and 4 of TCS, Zaheerabad are concerned. However, it is made clear that TCS, Zaheerabad cannot store any toddy as the licence of the Toddy Depot was already suspended but the petitioner-society is entitled to transport the toddy from the topes to the toddy shops directly and conduct the sales of the toddy.

It is also open to the Prohibition and Excise Superintendent, Sangareddy, to take appropriate action under Section 31(2) of the Act for cancellation of the licences of Shop Nos.1, 2 and 4 of TCS, Zaheerabad immediately after the cancellation of the licences of the Toddy Depot and Shop No.3 of TCS, Zaheerabad.

The writ petition is accordingly disposed of.

_____

V. ESWARAIAH, J

October 26, 2005

DSK